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REMARKS

Regarding the status of the application, Claims 1, 9 and 17 have been amended and Claims 1-19 are pending in this application. Reconsideration of this application is respectfully requested.

It is respectfully submitted that the Examiner's issuance of a final office Action is unwarranted and improper. The Examiner asserted that Applicants amendment necessitated the new ground(s) of rejection. This assertion is not understood. The independent Claims were amended in the prior response to indicate that the firmware that runs on the processing circuitry that processes geographic location and time data entered into the camera to automatically select one of the profiles based upon the geographic location and time data without presenting a question to a user. It is respectfully submitted that these minor amendments would not necessitate a new search.

It appears that the Examiner has searched the Japanese patent office records to find the presently cited reference. This could have been done as part of the original search by the Examiner. Applicants should not be penalized because the Examiner uncovered new art that should have been uncovered in the initial search. The previously cited Walker, et al. reference is in International Classes H04N 005/232; H04N 005/76, while the Wantanabe reference is in International Classes H04N 9/04, H04N 5/238, H04Q 7/34.

Therefore, it is respectfully submitted that the Examiner should have uncovered the presently cited Wantanabe reference at the time of the initial search. Applicants should be given the opportunity to argue the patentability of the present invention over the newly cited art without having the burden of being under final rejection. In view of the above, withdrawal of the final Office Action is respectfully requested.

Claims 1-4, 7-12, and 15-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Application Publication No. 2003-244709 of Watanabe. The Examiner took Official Notice "that it is well known in the art to store CPU instructions as firmware."

The present invention is embodied in digital cameras and methods that employ location and time data to automatically select and/or adjust prestored profiles, such as scene parameters and illumination source profiles (exposure and color balance, for example) used when taking photographs at different geographic locations.

Claim 1, which is representative of independent Claims 1, 9 and 17, calls for a digital camera comprising:

a user interface;
processing circuitry coupled to the user interface;
a plurality of predetermined profiles stored in the camera; and
firmware that runs on the processing circuitry that processes geographic location and time data entered into the camera to automatically select one of the profiles based upon the geographic location and time data without presenting a question to a user.

The Watanabe reference discloses in its Abstract, for example, that "When a shutter button is depressed and a GPS sensor can acquire a current position, the digital camera implements imaging processing and acquires the current position by external communication and acquires a current date and time (steps 100 to 108). Then the digital camera accesses a weather information server connected to a network to transmit the acquired current position and current date and time to the server, receives weather information corresponding to them from the weather information server and applies white balance correction to the photographed image on the basis of the received weather information (steps 110 to 116). When the digital camera cannot acquire the current position, the digital camera activates a strobe to implement imaging processing (steps 118, 120)."

Paragraph [0011] of the Watanabe reference cited by the Examiner discloses that "In addition, as indicated to claim 2, said amendment means may be made to carry out white balance amendment of said photography image with the white balance correction value corresponding to the acquired weather information including a correction value storage means to memorize the white balance correction value defined corresponding to each of two or more weather information defined beforehand. It is determined that white balance correction value becomes white [the self-luminous color related to the weather for example, at the time of photography]. Thereby, the white balance of a photography image is amended and a proper image can be obtained."

The Examiner cited paragraphs [0038] to [0040] as essentially disclosing the firmware recited in Claim 1. It is respectfully submitted that this is in error. Paragraphs [0038] to [0040] of the Watanabe reference discloses (from the computer translation):

"[0038] With the gestalt of this operation, CPU 38 transmits the current time information about the current time (photography time) acquired from the timer 60, and the currency information about the current position (camera station) acquired from the GPS sensor 62 to the server computer 90 through the communications department 64.

[0039] The past and the newest weather information of every place (for example, fine weather, fine, cloudiness, rain, etc.) are accumulated in the server computer 90, and the weather information corresponding to the current time information and currency information which were transmitted from the personal digital assistant 92 is transmitted to a personal digital assistant 92.

[0040] Based on the weather information transmitted from the server computer 90, CPU 38 calculates the gain values Rg, Gg, and Bg, and outputs them to the white balance equalization circuit 30. Thereby, the white balance control suitable for the weather at the time of photography should do -- a diaphragm is immobilization -- etc. -- also when exposure conditions have constraint, degradation of image quality can be suppressed."

From a reading of paragraph [0040], it is respectfully submitted that the Watanabe reference discloses that the CPU 38 calculates the gain values Rg, Gg, and Bg, and outputs them to the white balance equalization circuit 30. As is indicated in paragraph [0030], for example, "The white balance equalization circuit 30 consists of multipliers 30R, 30G, and 30B for fluctuating the digital value of R, G, and B signal, respectively, and R, G, and B signal are added to Multipliers 30R, 30G, and 30B, respectively."

Therefore, it is respectfully submitted that the Watanabe reference discloses that the white balance correction is performed after the image is taken and that white balance equalization is performed essentially in a multiplier circuit. This is not what is recited in independent Claims 1, 9 and 17.

Again, Claim 1, for example, calls for " firmware that runs on the processing circuitry that processes geographic location and time data entered into the camera to automatically select one of the profiles based upon the geographic location and time data without presenting a question to a user." The present invention selects one of the plurality of predetermined profiles stored in the camera. The Wantanabe reference clearly does not disclose or suggest storing any profiles, it computes the white balance equalization parameters using the white balance equalization circuit 30 which "consists of multipliers 30R, 30G, and 30B for fluctuating the digital value of R, G, and B signal, respectively" as is stated in paragraph [0030], for example, of the Watanabe reference.

Therefore, and with regard to Claims 1, 9 and 17, it is respectfully submitted that there is no disclosure or suggestion contained in the Watanabe reference that the Watanabe device stores a plurality of predetermined profiles in the camera, or that the device contains firmware that runs on the processing circuitry that processes geographic location and time data entered into the camera to automatically select one of the profiles based upon the geographic location and time data without presenting a question to a user. It is respectfully submitted that the Wantanabe reference does not store profiles or automatically select one of the stored profiles based upon the current location of the device.

Therefore, it is respectfully submitted that Claims 1, 9 and 17 are not disclosed or suggested by the Wantanabe reference. Withdrawal of the Examiner's rejection and allowance of Claims 1, 9 and 17 are respectfully requested.

Dependent Claims 2-4, 7, 8, 10-12, 15, 16 and 16 are considered patentable at least based upon the allowability of Claims 1, 9 and 17. Withdrawal of the Examiner's rejection and allowance of Claims 2-4, 7, 8, 10-12, 15, 16 and 16 are respectfully requested.

Claims 6, 14, and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Application Publication No. 2003-244709 of Watanabe in view of U.S. Patent No. 5,086,314 issued to Aoki. The Examiner admitted that "Watanabe is silent with regard to allowing a user to manually enter geographic location and time data." The Examiner cited the Aoki patent as disclosing "an exposure control device for a camera that determines an appropriate exposure profile based on latitudinal and longitudinal data that can be entered directly by a user (see column 12, lines 6-8). The user is also responsible for entering the time (see column 4, lines 13-17). As stated in column 11, lines 49-57, an advantage of entering this data in is that an appropriate sunrise or sunset time can be calculated and/or corrected, resulting in a more accurate exposure." The Examiner concluded that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Watanabe's camera allow a user to enter a geographic location and time, as described by Aoki."

The Wantanabe reference teaches that "the digital camera accesses a weather information server connected to a network to transmit the acquired current position and current date and time to the server, receives weather information corresponding to them from the weather information server and applies white balance correction to the photographed image on the basis of the received weather information." [Abstract] It is respectfully submitted that the Wantanabe reference thus teaches away from manually entering location data and thus the teachings of the Aoki patent would not be combined therewith by one skilled in the art. Therefore, it is respectfully submitted that the combined teachings of the Wantanabe and Aoki references do not disclose or suggest the presently claimed invention, and certainly not without distorting the express teachings of the references and using improper hindsight reconstruction.

Dependent Claims 6, 14, and 19 are also considered patentable at least based upon the allowability of Claims 1, 9 and 17. Withdrawal of the Examiner's rejection and allowance of Claims 6, 14, and 19 are respectfully requested.

The references heretofore made of record and not relied upon is considered pertinent to applicants' disclosure to the extent indicated by the Examiner.

In view of the above, it is respectfully submitted that all pending Claims are not obvious in view of the cited references, taken in conjunction with Official Notice, or taken singly or together, and are therefore patentable. Accordingly, it is respectfully submitted that the present application is in condition for allowance. Reconsideration and allowance of this application are earnestly solicited.

Respectfully submitted,

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